

Introduced by: Mayor Suvlu
Date
Public Hearing:

Action:
Vote:

CITY OF UTQIAĠVIK, ALASKA

ORDINANCE #09-2019

AN ORDINANCE ENACTING CHAPTER 4.25 OF THE UTQIAĠVIK CODE OF ORDINANCES IMPOSING A ONE CENT (\$0.01) PER OUNCE TAX UPON THE SALE OF SODAS, ENERGY DRINKS AND SIMILAR SUGAR-SWEETENED BEVERAGES, IF SUCH TAX IS APPROVED BY THE VOTERS

WHEREAS diabetes, obesity, and tooth decay have been on the rise for decades in the United States, Alaska, and in the City of Utqiaġvik; and

WHEREAS while there is no single cause for the rise in these health issues, there is scientific evidence of a link between the consumption of sugar-sweetened drinks and the incidence of diabetes, obesity, and tooth decay; and

WHEREAS a single 20-ounce bottle of sugar-sweetened soda typically contains the equivalent of approximately 16 teaspoons of sugar; and

WHEREAS as of 2017, Alaska's adult obesity rate was 34.2%, which was the 9th highest adult obesity rate in the United States, and approximately a 19% increase above the Alaska adult obesity rate of 15.1% in 1995; and

WHEREAS as of 2018, American Indian/Alaska Natives had the second highest obesity rate (38.7%) in the United States; and

WHEREAS as of 2018, American adults who live in rural areas have higher prevalence of obesity (34.8 %) compared with adults living in suburban (30.6 %) and urban (30.3 %) areas; and

WHEREAS the level of tooth decay among American Indian and Alaska Native children is more than four times higher than white non-Hispanic children, according to an Indian Health Service data brief from 2015. More than half (54%) of this population of children between 1 and 5 years of age have experienced tooth decay; and

WHEREAS Alaska Native children 2 to 5 years of age have almost five times the amount of tooth decay as do other American children of the same age, Alaska Native children ages 6 to 14 have 4.5 times the amount of tooth decay as other American children, and Alaska Native adults have 2.5 times the amount of tooth decay as other American adults; and

WHEREAS approximately 11% of the Alaska adult population has diabetes and according to the Centers for Disease Control, American Indians and Alaska Natives have a greater chance of having diabetes than any other US racial group; and

WHEREAS based on the findings set forth above, the City Council desires to discourage excessive consumption of sugar-sweetened beverages in Utqiagvik by imposition of a tax on the sale of such beverages.

BE IT ORDAINED by the City Council of Utqiagvik, Alaska, that:

SECTION 1. Classification. Section 2 of this ordinance is permanent in nature and shall be incorporated into the Utqiagvik Code of Ordinances ("Code") if the voters approve the Sugar-Sweetened Beverage Control Tax at the October 1, 2019 election. Section 3 of this ordinance is not permanent in nature and shall not be incorporated into the Code.

SECTION 2. Chapter Enactment. The Code is hereby amended by adding the following new Chapter 4.25 entitled Sugar-Sweetened Beverage Control Tax to read as follows:

Chapter 4.25 Sugar-Sweetened Beverage Control Tax

Section 4.25.010 Definitions

Section 4.25.020 Imposition of Tax on Sugar-Sweetened Beverages

Section 4.25.010 Definitions

The following definitions apply to this Chapter.

- A. "Added Caloric Sweetener" ("ACS") means any substance or combination of substances that (1) is suitable for human consumption; (2) adds calories to the diet if consumed; (3) is perceived as sweet when consumed; and (4) is used for making, mixing, or compounding Sugar-Sweetened Beverages by combining an ACS with one or more other ingredients including, without limitation, water, ice, powder, coffee, tea, fruit juice, vegetable juice, or carbonation or other gas. An ACS may take any form, including but not limited to a liquid, syrup, or powder, whether or not frozen. An ACS includes, without limitation, sucrose, fructose,

glucose, other sugars, and high fructose corn syrup, but does not include a substance that exclusively contains natural, concentrated, or reconstituted fruit or vegetable juice.

- B. "Alcoholic Beverage" has the meaning provided in Section 8.15.010 of the Code.
- C. "Beverage For Medical Use" means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness. A Beverage For Medical Use shall not include drinks commonly referred to as "sports drinks" or any other common names that are derivations thereof.
- D. "Consumer" means any person purchasing an SSB from a Seller for a purpose other than resale in the ordinary course of business.
- E. "Milk" means natural liquid milk, regardless of animal source or butterfat content, natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content, or dehydrated natural milk, whether or not reconstituted and regardless of animal source or butterfat content, and plant-based milk substitutes, that are marketed as milk, such as soy milk and almond milk.
- F. "Seller" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells, serves, or otherwise provides an SSB directly to a Consumer.
- G. "Sugar-sweetened beverage" ("SSB") means any beverage intended for human consumption to which an ACS has been added and that contains at least two (2) calories per fluid ounce. An SSB includes, but is not limited to all drinks and beverages commonly referred to as "soda," "pop," "soda pop," "coke," "cola," "soft drink," "sports drink," "energy drink," "sweetened ice tea," or other derivations thereof. An SSB does not include: (1) any beverage in which Milk is the primary ingredient, i.e., the ingredient constituting a greater volume of the product than any other; (2) any Beverage For Medical Use; (3) any liquid sold for use for weight reduction as a meal replacement; (4) any product commonly referred to as "infant formula" or "baby formula"; or (5) any Alcoholic Beverage.

Section 4.25.020 Imposition of Tax on Sugar-Sweetened Beverages

- A. The City hereby levies a tax of one cent (\$0.01) per fluid ounce of any SSB sold to a Consumer in the City by a Seller. For example, if a bottle in

which an SSB is sold contains 20 fluid ounces, the tax for the bottle of SSB shall be twenty cents (\$0.20).

- B. No Seller may provide a rebate or in any way reimburse a Consumer for any part of the tax provided for in this Section.
- C. In accordance with AS 29.45.650(f), the tax imposed by this Chapter shall not apply to a purchase of an SSB made with Food Stamps or in accordance with the Special Supplemental Food Program for Women, Infants, and Children.
- D. The procedures, rights, and remedies applicable to the collection and payment of the Tobacco Tax imposed under Chapter 4.22 of the Code shall be applied to the collection and payment of the Sugar-Sweetened Beverage Control Tax to the extent such procedures, rights and remedies are not specifically covered by this Chapter, and are not in conflict with this Chapter.
- E. Subject to available funding duly appropriated by the City Council, seventy five percent (75%) of the funds generated from the Sugar-Sweetened Beverage Tax shall be used to support youth programs and activities sponsored by or conducted by the City.

SECTION 3. Election to Consider Imposition of a Sugar-Sweetened Beverage Control Tax.

The City Clerk shall place the following proposition on the ballot at the election to be held on October 1, 2019 for the voters of the City of Utqiagvik.

Proposition

IMPOSITION OF A SUGAR-SWEETED BEVERAGE CONTROL TAX WITHIN THE CITY

Shall the City of Utqiagvik impose a one cent (\$0.01) per ounce tax on the sale of sugar-sweetened beverages, including but not limited to sodas and energy drinks, within the City?

☐ **Yes**

☐ **No**

SECTION 4. Severability. If any clause, sentence, paragraph, section or portion of this ordinance for any reason is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this ordinance, but shall be confined in its operation to the

clause, sentence, paragraph, section or portion of this ordinance directly involved in the controversy in which the judgment is rendered.

SECTION 5. Effective Date. This Ordinance becomes effective January 1, 2020 if the voters approve the Sugar-Sweetened Beverage Control Tax at the October 1, 2019 election.

ENACTED THIS ____ DAY OF _____ 2019, by a vote of ____ in favor and ____ opposed.

ATTEST:

Fannie Suvlu, Mayor

Loyla T. Leavitt, Acting City
Clerk